FILED
DEC 28
MICHAEL RODAK, J

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 72-1589

VIOLA N. RICHARDSON, as County Clerk and Registrar of Voters for the County of Mendocino, individually and as a representative of the class of all other County Clerks and Registrars of Voters,

Petitioner,

v.

ABRAN RAMIREZ, LARRY GILL and ALBERT LEE, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,

Respondents.

BRIEF OF THE AMERICAN BAR ASSOCIATION, AMICUS CURIAE

CHESTERFIELD SMITH, President
RICHARD J. HUGHES
DANIEL L. SKOLER
MELVIN T. AXILBUND
RICHARD C. HAND
PAUL F. ATTAGUILE
RALPH E. LOEWENSTEIN

American Bar Association
1155 E. 60th Street
Chicago, Illinois

Attorneys for Amicus Curiae

ABA DUPLICATORS, INC.—1700 Pine Street, S.E.—Washington, D.C.—659-2177

INDEX

	Page
INTEREST OF AMICUS	1
SUMMARY OF ARGUMENT	2
ARGUMENT	7
I. California's Disenfranchisement Of Former Felons Is Not Necessary To Promote A Compelling State Interest And Therefore Denies Equal Protection Of The Laws	7
II. Section 2 Of The Fourteenth Amendment Is Not An Independent Grant Of Authority To States To Disenfranchise Former Offenders	16
A. Neither the language of Section 2 nor its legislative history support the view that it was meant to establish a discrimination not susceptible to equal protection scrutiny	16
B. Prior judicial interpretations of the effect of Section 2 on offender voting restrictions were not well reasoned, are distinguishable from this case, and should not be deemed binding	20
III. Actions Taken By Those Concerned With Criminal Justice, Recent State Legislative Activity, And Positions Adopted By Groups Concerned With The Electoral Process, Confirm That There Is No Justification For Denying Former Felons Their Fundamental Right To Vote	24

Page

CONCLUSION 31

APPENDIX A 32

APPENDIX B 36

TABLE OF AUTHORITIES

Cases:

Baker v. Carr,
369 U.S. 186 (1962) 7

Beacham v. Braterman,
300 F.Supp. 182 (S.D. Fla. 1969),
aff'd. mem. 396 U.S. 12 (1969) 10, 20, 21

Breedlove v. Suttles,
302 U.S. 277 (1937) 9

Bullock v. Carter,
405 U.S. 134 (1972) 7

Carrington v. Rash,
380 U.S. 89 (1965) 7

Dillenburg v. Kramer,
469 F.2d 1222 (9th Cir. 1973). 12, 15, 20, 21

Dunn v. Blumstein,
405 U.S. 330 (1972) 7, 8, 10

Evans v. Comman,
398 U.S. 419 (1970) 7

Fincher v. Scott,
352 F.Supp. 117 (M.D.N.C. 1972),
aff'd. mem. 411 U.S. 961 (1973) 10, 20, 21, 22

	Page
Green v. Board of Elections, 380 F.2d 445 (2d Cir. 1967), *cert. den.* 389 U.S. 1048 (1968)	10, 11, 21, 23
Harper v. Virginia Board of Elections, 383 U.S. 663 (1966)	7, 9, 15, 24
Kramer v. Union Free School District, 395 U.S. 621 (1969)	7, 9, 10
Kronlund v. Honstein, 327 F.Supp. 71 (N.D.Ga. 1971)	10
Lassiter v. Northampton County Board of Election, 360 U.S. 45 (1959)	9
Leary v. United States, 395 U.S. 6 (1969)	13
Otsuka v. Hite, 64 Cal.2d 596, 51 Cal. Rptr. 284, 414 P.2d 412 (1966)	8
Phoenix v. Kolodziejski, 399 U.S. 204 (1970)	7
Pope v. Williams, 193 U.S. 621 (1904)	9
Ramirez v. Brown, 9 Cal.3d 199 (1973)	14, 15, 21
Reynolds v. Sims, 377 U.S. 533 (1964)	7
Stephens v. Yeomans, 327 F.Supp. 1182 (D.N.J. 1970)	18, 21
United States v. Anthony, 24 F.ed Cas. No. 14, 459 P. 829 (C.C.N.D.N.Y. 1873)	22, 23

Page

Wesberry v. Sanders,
376 U.S. 1 (1964) 7

Constitutional and Statutory Provisions:

U.S. Const.
Art. III, Sec. 3 25
Amendment 5 17
Amendment 8 25
Amendment 14 . . . . . 8, 16, 17, 18, 21, 22

Cal. Const.
Art. II, Sec. 3 7
Art. XX, Sec. 11 7

Cal. Govt. Code §275 (West 1966) 11

Wash. Rev. Code
§29.85.020 15
§29.85.050 15
§29.85.060 15

Other Authorities:

American Law Institute,
Model Penal Code 29

16 Am. Jur.2d *Constitutional Law*
§§66, 67, 76 (1964) 17

A. Babington, *The Power to Silence* (1968) 25

Black's *Law Dictionary*
444 (4th ed. 1951) 17

Brief for the Petitioner 11, 16

Brief for the State of California as
Amicus Curiae 16

Page

California League of Women Voters, *Policy Statement* (1972) 28

Democratic Party Platform – 1972 28

Developments in the Law – Equal Protection, 82 Harv. L. Rev. 1065 (1969) 9

E. du Fresne and W. du Fresne, *The Case for Allowing Convicted Mafiosi to Vote for Judges: Beyond Green v. Board of Elections*, 19 DePaul L. Rev. 112 (1969) 11

National Advisory Commission on Criminal Justice Standards and Goals, *Report on Corrections* (1973) 27

National Conference of Commissioners on Uniform State Laws, *Uniform Act on the Status of Convicted Persons* (1965) 29

National Congress on Penitentiary and Reformatory Discipline (American Correctional Association) *Declaration of Principles* (1870) 25

Note, *Restoring the Ex-Offender's Right to Vote: Background and Developments*, 11 Am. Crim. L. Rev. 720 (1973) 19, 29

President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections* (1967) 26, 28

Remarks by President Richard M. Nixon, First National Conference on Corrections, December 6, 1971 26

A. de Toqueville, *Democracy in America* (Knopf 1956) 30

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 72-1589

VIOLA N. RICHARDSON, as County Clerk and Registrar of Voters for the County of Mendocino, individually and as a representative of the class of all other County Clerks and Registrars of Voters,

Petitioner,

v.

ABRAN RAMIREZ, LARRY GILL and ALBERT LEE, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,

Respondents.

BRIEF OF THE AMERICAN BAR ASSOCIATION, AMICUS CURIAE

INTEREST OF AMICUS

The American Bar Association is a national organization of the legal profession. It has more than 155,000 members from all states and has for some years maintained an active interest in criminal justice improvement. One of its recent and more ambitious undertakings in this area has been the Project on Minimum Standards for Criminal Justice.

In 1970, the American Bar Association established an interdisciplinary Commission on Correctional Facilities and Services to address its growing interest in and commitment to the correctional phase of criminal justice administration. The Commission has undertaken a program to stimulate broadscale improvement in all aspects – legal and operational – of the nation's systems for correction and rehabilitation of criminal offenders. Among the Commission's several action projects is a Resource Center for Correctional Law and Legal Services concerned, among other things, with analysis and resolution of the growing number of legal and constitutional issues being raised in connection with the operation of correctional programs and systems. Focusing on the demands of both law and sound correctional practice, the Commission is anxious to contribute to full consideration of legal questions which bear significantly on the effectiveness and fairness of our correctional apparatus.

Sharing these interests are other major components of the American Bar Association, including the Young Lawyers Section and the Section of Individual Rights and Responsibilities. They join the Commission in submitting this brief on behalf of the Association to aid the Court in resolving the issues before it.*

SUMMARY OF ARGUMENT

This case presents difficult questions about the application of current Constitutional standards to state laws which restrict the fundamental right to vote. The Court is being

---

* The Association has filed with the clerk of the Court letters from counsel for both parties consenting to the submission of this amicus curiae brief.

asked to determine whether the Supreme Court of California was correct when it found that provisions of the State Constitution disenfranchising persons convicted of "infamous crimes" or "high crimes" were in violation of the Equal Protection Clause of the Fourteenth Amendment, as applied to former felons whose sentences and periods of parole had expired.

While there is broad recognition today of the desirability of restoring rehabilitated offenders to the normal rights and privileges of citizens, including the right to vote, this case deals only with the Constitutional dimension of that goal, *i.e.*, the extent to which the Federal Constitution will tolerate disenfranchisement of former offenders who have rejoined the general class of citizens, and how established tests under the Equal Protection Clause for justification of voting restrictions apply to this class of citizens.

The issues are complicated by (i) special language in the Fourteenth Amendment which may warrant different treatment of the ex-offender class than groups affected by other kinds of voter eligibility requirements, and (ii) recent offender disenfranchisement cases, affirmed without opinion by this Court, which suggest that a separate standard or frame of reference may exist for measurement of ex-felon voting exclusions against Fourteenth Amendment guarantees. Only restrictions on the voting rights of discharged ex-felons are under review in this case, and not those of convicted persons still serving sentences, whether in prison or under parole, probation or other correctional supervision.

In the view of amicus, the judgment of the court below was correct. Because the right to vote is central in our representative government system, this Court has enunciated exacting tests for determining whether state classifications

which deny the franchise to certain groups of citizens and not others contravene the Equal Protection Clause. Briefly, these require the identification of a "compelling state interest" behind the exclusion and a determination that the exclusion is a necessary and not unduly burdensome method, among available alternatives, for adequately protecting that interest.

Amicus contends, first, that these tests presumptively are and should be applicable to classifications which deny ex-felons the right to vote. Whatever special considerations may exist for felons still under sentence, both the Constitutional priority for protection of voting rights and the language of the Equal Protection Clause warrant no exception for discharged ex-offender citizens.

Given the legitimacy of applying these Equal Protection standards, it appears clear that blanket restrictions disenfranchising all former felons are neither "necessary" nor "non-burdensome" methods of insuring the state's compelling interest in preservation of the integrity of the electoral process and the representative government framework of which it is an integral part. Indeed, in light of the current character of our election systems, contemporary balloting and voter registration machinery, and penal sanctions available for unlawful interference with the electoral and governmental processes, blanket disenfranchisement for felony violations would have difficulty meeting the "rational relationship" test which previously applied (*i.e.*, up to 1969) in determining the Constitutional appropriateness of voting restrictions. In asserting this infirmity for broad "felony", "high crime", "infamous crime" disqualifications, amicus expresses no judgment on whether laws disenfranchising ex-offenders for specific enumerated crimes related to the electoral or governmental process (*e.g.*, vote fraud,

bribery of officials, violence against or intimidation of candidates) would be Constitutional.

It has been asserted that ex-felon disenfranchisement may stand on a different Constitutional footing than other voter restrictions by virtue of special language in Section 2 of the Fourteenth Amendment. Section 2 reduces the basis of Congressional representation in states which deny the right to vote to male citizens "except for participation in rebellion, or other crime". The argument is that Section 1 (equal protection) could not have been intended to outlaw a discrimination which Section 2 (reduced representation penalty) expressly allows. This reasoning seems unsupported by either the language of the exception or its limited legislative history.

The legislative history of this Reconstruction measure offers no substantiation of an intent to establish a traditional felon disenfranchisement qualification in Section 2. If anything, it suggests a desire to validate disenfranchisement of those who participated in the rebellion or in related disloyal or seditious conduct. The phrase "or other crime", if literally interpreted to preclude Equal Protection scrutiny, would permit the untenable conclusion that a state could Constitutionally disenfranchise individuals even for such minor criminal misbehavior as traffic violations, petty gambling, etc. This Court cannot avoid interpretation of the "other crime" exception and should do so, in amicus' view, (i) in terms of the disloyal behavior rationale that seemed to motivate the phrase's coupling with "participation in rebellion" and (ii) without precluding Equal Protection examination of state ex-offender disenfranchisement laws.

Finally, the Court will need to consider its recent memorandum affirmances of disenfranchisement measures in North Carolina and Florida which were broadly applicable to felons, and Petitioner's assertion (grounded in *Green v. Board of Elections*) that the propriety of excluding felons from the franchise has been frequently articulated by this Court "as an example of what states may properly do". While the Florida and North Carolina decisions do indeed suggest an immunity from current Equal Protection standards for felon disenfranchisement, they should not be considered controlling. They did not involve full and reasoned analysis by this Court, and are distinguishable from the instant case. (One involved an incarcerated felon and the other applied the "rational relationship" test). The assertion that this Court has assumed the Constitutional legitimacy of offender disenfranchisement in numerous opinions is not well founded, since it is based on dicta and factual situations which are not pertinent to or consistent with today's tests of the Constitutional legitimacy of voter restriction measures.

For the Court to affirm a Fourteenth Amendment prohibition against blanket ex-felon disenfranchisement measures will do no harm to state interests in effective correctional administration. Such disenfranchisement cannot be shown to serve any significant rehabilitative purpose. Indeed, it has been the near unanimous position of correctional administrators, study commissions, law reform codes, and students of penology that restoration of offender civil rights serves the commitment to offender rehabilitation and reintegration that is now a basic tenet of every state correctional system.

ARGUMENT

I. CALIFORNIA'S DISENFRANCHISEMENT OF FORMER FELONS IS NOT NECESSARY TO PROMOTE A COMPELLING STATE INTEREST AND THEREFORE DENIES EQUAL PROTECTION OF THE LAWS

There is no right more basic to our democratic form of government than the right to vote. Indeed, this Court has recognized that voting is perhaps the one right most fundamental to our system.[1] "Other rights, even the most basic, are illusory if the right to vote is undermined". *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). Because the provisions of California law challenged herein[2] deprive a class of

---

[1] The fundamental nature of the right to vote has been expressed by the Court in numerous voting cases. *Dunn v. Blumstein*, 405 U.S. 330 (1972) (invalidating Tennessee's one year residency requirement); *Bullock v. Carter*, 405 U.S. 134 (1972) (invalidating a Texas primary filing fee system); *Phoenix v. Kolodziejski*, 399 U.S. 204 (1970) (provision limiting the vote on city general obligation bonds to landowners held unconstitutional); *Evans v. Cornman*, 398 U.S. 419 (1970) (invalidating a regulation limiting the vote on local revenue bonds to property taxpayers); *Kramer v. Union Free School District*, 395 U.S. 621 (1969) (regulation limiting voting in school board elections to property owners, parents of school children and those leasing property in school district held unconstitutional); *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966) (invalidating poll tax); *Carrington v. Rash*, 380 U.S. 89 (1965) (restriction of voting privilege of certain military personnel held unconstitutional). *See also* the reapportionment cases, *Reynolds v. Sims*, 377 U.S. 533 (1964), and *Baker v. Carr*, 369 U.S. 186 (1962).

[2] California Constitution, Art. II, Section 3 and Art. XX, Sec. 11 with implementing legislation. These sections, respectively, mandate legislation to exclude persons convicted of "infamous crimes" or "high crimes" from the franchise. The exclusion also applies to

(continued)

citizens of this most fundamental of rights, their operation must withstand scrutiny under the Equal Protection Clause of the Fourteenth Amendment.

In *Dunn v. Blumstein*, 405 U.S. 330, 337 (1972), this Court set forth the standard of review to be applied under the Fourteenth Amendment when testing the validity of state-imposed voting restrictions:

> ". . . if a challenged statute grants the right to vote to some citizens and denies the franchise to others, the Court must determine whether the exclusions are necessary to promote a compelling state interest."

In enunciating this stringent test for reviewing voter classifications in *Dunn*, the Court went beyond the then existing standard which required the showing of a "rational relationship" between the classification and a legitimate

---

2 (continued) certain enumerated offenses, e.g., misappropriation of public money, bribery, malfeasance in office, but the basic felony (infamous/high crime) exclusion is at issue in this case since the crimes of all individual respondents fell in this classification (*i.e.* robbery, burglary, drug use) and the class action was brought on behalf of disenfranchised felons generally. In *Otsuka v. Hite*, 64 Cal. 2d 596, 414 P.2d 412 (1966), the California Supreme Court construed the foregoing provisions as requiring an inquiry into the nature of the crime and, on that basis, determining whether the offender "may be reasonably deemed to constitute a threat to the integrity of the elective process." There was no attempt to delimit the meaning of "high crimes" or "infamous crimes" to specific felonies. The same court found this limitation of the disenfranchisement provisions inadequate under new equal protection standards and, in substance, reversed the *Otsuka* decision in the case at bar.

state purpose.[3] In so doing, it was following the logical course charted by previous cases dealing with the election process in general and voting in particular.[4]

The concept that a state no longer may invoke even a "compelling interest" to limit the right to vote without examining the necessity of the method used, was earlier established in *Kramer v. Union Free School District*, 395 U.S. 621 (1969):

> "For assuming, arguendo, that New York legitimately might limit the franchise in these school district elections to those 'primarily interested in school affairs', close scrutiny of the §2021 classification demonstrates that they do not accomplish this purpose with sufficient precision to justify denying appellant the franchise . . . In other words, the classifications must be tailored so that the exclusion of appellant and members of his class is necessary to achieve the articulated state goal." *Id.* at 632.

---

[3] See *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959), wherein the Court upheld a North Carolina literacy test because it found a relationship between the test and the state's interest in promotion of the intelligent use of the ballot. See also *Breedlove v. Suttles*, 302 U.S. 277 (1937), overruled by *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966); and *Pope v. Williams*, 193 U.S. 621 (1904).

[4] See n. 1, *supra*. See generally, *Developments in the Law – Equal Protection*, 82 Harv. L. Rev. 1065 (1969).

Dunn, which involved a Tennessee statute that required an eligible voter to be a state resident for one year or a county resident for 90 days, simply adopted, then, the *Kramer* standards of "necessity" and of statutory "precision" for the questioned classification. Significantly, *Dunn* also held that where fundamental rights are involved, states should pursue less rather than more burdensome ways of protecting the government interests involved.[5] It is against this exacting equal protection standard that the California Supreme Court in this case measured that State's constitutional and legislative prohibitions authorizing disenfranchising of former felons.

Petitioner, and the cases upon which she relies,[6] argue that restricting the right of former offenders to vote is necessary, as it must be under *Dunn*, in order to maintain the integrity of the electoral process. Apart from assertion of the historic exclusion of felons from the franchise under old "civil death" concepts, substantive justification seems to turn on the reasonableness of the state's judgment that

---

[5] 405 U.S. 330, 343 (1972). The Dunn Court in discussing less restrictive alternatives, indicated that "Tennessee has at its disposal a variety of criminal laws which are more than adequate to detect and deter whatever fraud may be feared." *Id.* at 353.

[6] *Fincher v. Scott*, 352 F.Supp. 117 (M.D.N.C. 1972) *aff'd mem.* 411 U.S. 961 (1973); *Kronlund v. Honstein*, 327 F.Supp. 71 (N.D. Ga. 1971); *Beacham v. Braterman*, 300 F.Supp. 182 (S.D. Fla. 1969), *aff'd mem.*, 396 U.S. 12 (1969); *Green v. Board of Elections of the City of New York*, 380 F.2d 445 (2d Cir. 1967), *cert. den.*, 389 U.S. 1048 (1968); all applying the "rational relationship" test rather than the more exacting "necessary to a compelling interest" test enunciated in *Dunn v. Blumstein*, *supra*, and *Kramer v. Union Free School District*, *supra*.

perpetrators of serious offenses, given the heavy incidence of recidivism and organized crime now prevalent, should not be in the position to vote for public officials. Such voting is said to be particularly harmful with respect to officials such as legislators, judges, and prosecutors who will make or enforce the very laws under which the ex-felon's subsequent crimes may be tried. See *Green v. Board of Elections*, 380 F.2d 445 (1967), *cert. den.*, 398 U.S. 1048 (1968).[6.5] Furthermore, in the words of the Petitioner, if former offenders were permitted to vote:

> ". . . California would be in precisely the position of allowing ex-felons to vote for and conceivably be elected, if otherwise qualified, to the office of legislator, sheriff, district attorney, or judge. This situation would be intolerable." Petitioner's Brief at 10.

This potential harm from ex-offender enfranchisement is asserted because, under California legislation, a person can run for and be elected to any office for which he is an eligible voter.[7]

Several presumptions are implicit in the foregoing assertions. First is the presumption that former offenders as a group make poor or illegally motivated voters, and, as voters, would have a significant impact on the election results for legislators, judges, and prosecutors; second, that they are more likely candidates for commission of election

---

6.5 But see E. du Fresne and W. du Fresne, *The Case for Allowing "Convicted Mafiosi to Vote for Judges:" Beyond Green v. Board of Elections of New York City*, 19 DePaul L. Rev. 112 (1969).

7 Cal. Govt. Code §275 (West 1966).

fraud offenses; and, third, that released offenders, if elected to office, would make untrustworthy public servants. As to the last, the question of disqualification of former felons to hold public office is an issue distinct from the voting rights question presented in this case. The State of California is not without means to provide separate standards and eligibility requirements as to the rights of ex-offenders to hold public office. While these too may be called to pass Constitutional muster, it is quite possible that different standards, methods, and results would emerge in balancing state and citizen interests.

As to the other justifications, no empirical evidence has been shown, nor indeed can it be, that "catch alls" embracing the wide variety of offender types and behaviors embraced in "felon" or "infamous crime" classifications are necessary or, indeed, reasonably calculated to forestall against the propensity of some offenders to abuse the franchise or recidivate to illegal acts which undermine the governmental process. Although these concerns seem to pertain to protection of the "purity of the ballot box," the 9th Circuit in *Dillenburg v. Kramer*, 469 F.2d 1222, 1224-25 (1972), has, like the Supreme Court of California, expressed its difficulty in discerning the nature of the interest served:

> ". . . Search for modern reasons to sustain the old governmental disenfranchisement prerogative has usually ended with a general pronouncement that a state has an interest in preventing persons who have been convicted of serious crimes from participating in the electoral process (*e.g.*, Green v. Board of Elections of City of New York (2d Cir. 1967) 380 F.2d 445, 451, cert. denied, 389 U.S. 1048, 88 S.Ct. 768, 19 L.Ed.2d 840)

> or a quasi-metaphysical invocation that the interest is preservation of the "purity of the ballot box". (*E.g.*, Washington v. State (1884) 75 Ala. 582, the venerable sire of abundant progeny; *cf.* Kronlund v. Honstein (N.D. Ga. 1971) 327 F.Supp. 71, 73.)
>
> "Few decisions have penetrated the disenfranchisement classification to ascertain whether the offenses that restrict or destroy voting rights have anything to do with the integrity of the electoral process or whether there is any constitutionally valid distinction between the class of offenses that disenfranchise and the class of offenses that do not. When the facade of the classification has been pierced, the disenfranchising laws have fared ill. (*E.g.*, Stephens v. Yeomans, D.N.J. 3-judge court 1970) 327 F.Supp. 1182; Otsuka v. Hite, (1966) 64 Cal. 2d 596, 51 Cal. Rptr. 284, 414 P.2d 412)."

Nor is it Respondent's burden to rebut these presumptions. This Court, in dealing with statutory presumptions in the past, has indicated that governmental authority imposing the presumption must establish its validity by showing that "the presumed fact is more likely to flow from the proved fact on which it is made to depend". *Leary v. United States*, 395 U.S. 6, 36 (1969). Yet, Petitioner has failed to establish, by empirical proof or otherwise, any rational connection between the fact of felony conviction and commission of election fraud or other crimes destructive of the governmental process. Rather, the presumption that former felons will be likely candidates for

election offenses punishes the ex-offender in advance, without credible evidence to support such probability.

Further, even assuming that a correlation between conviction and election crimes could be shown, states have at their disposal "less drastic means" than disenfranchisement of all felons to protect their interests. Virtually every state has a variety of criminal statutes dealing with election code offenses. As the California Supreme Court has stated in this case, "the voting and counting process is now thoroughly hemmed in by control mechanisms at every stage so that deliberate irregularities, if present today, are rare and have negligible effects on election results . . ." *Ramirez v. Brown*, 9 Cal.3d 199, 215 (1973). The California Court also observed:

> "In sum, it may have been feasible in 1850 to influence the outcome of an election by rounding up the impecunious and the thirsty, furnishing them with free liquor, premarked ballots, and transportation to the polls; to do so in 1973, if possible at all, would require the coordinated skills of a vast squad of computer technicians." *Id.* at 214.

Finally, the proffered explanations for disenfranchisement fail to account for (i) the absence of former felon disenfranchisement provisions in many states, (ii) the ability of states to impose as severe and comprehensive a set of criminal snactions as may be desired to protect against damage to or corruption of the electoral or political process, and (iii) the existence in several states of election code provisions, which are misdemeanors

and which do not impose the consequence of disenfranchisement.[8] These alternatives, already employed by states no less concerned than California with safeguarding their electoral processes, suggest that viable and less drastic means do indeed exist for protecting state interests.

The classification involved in the instant case is devoid of relationship to the crime or public dangers protected against. Neither is it based on any qualities of the offender; rather, "it rests solely on the nature of the punishment that can be given for an offense". *Dillenburg v. Kramer, supra,* at 1225. Therefore, it cannot be said that the state has tailored its classification with sufficient precision to meet the exacting standard of the Equal Protection Clause. Just as "wealth, like race, creed or color, is not germane to one's ability to participate intelligently in the electoral process", *Harper v. Virginia Board of Elections,* 383 U.S. 663, 667 (1966), neither can the fact of prior felony conviction, standing alone, be justified as a total bar to the exercise of this most fundamental right.

---

[8] *See, e.g.,* Wash. Rev. Code §29.85.050 (fraudulently misleading voters in marking ballots); Wash. Rev. Code §29.85.060 (voter coercion by election official); Wash. Rev. Code §29.85.020 (tampering with ballots by election officer), cited in *Dillenburg v. Kramer,* 469 F.2d 1222, n. 6 (1972). Indeed, this is true in California itself where ". . . at least 60 additional acts are punished as misdemeanors in 40 separate sections." *Ramirez v. Brown, supra* at 215.

II. SECTION 2 OF THE FOURTEENTH AMENDMENT IS NOT AN INDEPENDENT GRANT OF AUTHORITY TO STATES TO DISENFRANCHISE FORMER OFFENDERS

Although a blanket prohibition on voting by ex-offenders should fail under the Equal Protection Clause, both the Petitioner[9] and the State of California[10] argue that Section 2 of the Fourteenth Amendment expressly reserves to states the power to withhold the franchise from former offenders. Section 2 provides in pertinent part:

> ". . . But when the right to vote is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or any way abridged, *except for participation in rebellion, or other crime*, the basis of representation therein shall be reduced . . ." (Emphasis added)

A. Neither the language of Section 2 nor its legislative history support the view that it was meant to establish a discrimination not susceptible to equal protection scrutiny

The proviso "except for participation in rebellion, or other crime" is part of a general penalty clause and must be read in that context. Section 2 penalizes, by reduced representation in the House of Representatives, states which deny the vote to eligible persons. It also provides that states which deny the vote to persons who have participated

---

[9] Petitioner's Brief at 20.

[10] Brief of State of California as *Amicus Curiae* at 13.

in "rebellion, or other crime" will not be so penalized. Only by reading into Section 2 an intent not evident from the words themselves may one conclude that states are affirmatively authorized to exclude former offenders from exercising the franchise.

To accord the phrase "or other crime" the meaning ascribed by Petitioner would suggest that states might deny the vote to individuals convicted of such misdemeanors as traffic offenses, trespass and littering ordinances, minor vandalism and similar infractions. (Unlike the Fifth Amendment reference to "infamous crimes", the Section 2 reference to "other crime" is not in any way limited.)[11] Such reasoning, of course, would produce an overbroad and irrational result. This result can be avoided but it makes clear the need to go beyond a literal reading of the "other crime" phraseology as an affirmative authorization.

Even if this Court were to conclude that Section 2 is an affirmative grant of authority to exclude criminals from the franchise, rather than an exception from a penalty provision, the issue of extent and duration of such disenfranchisement would remain. Where different sections of a constitutional provision are enacted contemporaneously, as with Sections 1 and 2 of the Fourteenth Amendment, the favored course is to interpret such provisions so that they may be read together harmoniously and without giving such force to one that it excludes the other.[12] In the instant case, such a reading is not only possible, but it produces, in the view of amicus, a more logical and

---

[11] Black's *Law Dictionary* 444 (4th ed. 1951). In technical usage, the general term "crime" includes misdemeanors.

[12] 16 Am. Jur.2d *Constitutional Law* §§66, 67, 76 (1964) and cases cited therein.

Constitutionally secure result. This course was followed in *Stephens v. Yeomans*, 327 F.Supp. 1182 (D.N.J. 1970). There the court found (at p. 1186):

> "... [The phrase "participation in rebellion or other crime] is an express exception or proviso in section 2, which in its general terms imposes a penalty on those states which disenfranchised for reasons other than rebellion or crime. Since it is now clear that the entire section 2 imposes no limitation on section 1, it can hardly be argued that the exception or proviso in section 2 was intended to impose such a limitation. We conclude, therefore, that the New Jersey statute which disenfranchises plaintiff must be judged by the exacting equal protection standards laid down by the Supreme Court in the voter disqualification cases referred to hereinabove."

Put to that test, disenfranchisement of persons guilty of minor violations, or the continuance of a valid disenfranchisement beyond the full term of a felon's sentence, should fail. It is difficult to regard this as anything but an unnecessarily drastic means of protecting a compelling state interest, even under the old "rational relationship" test.

The full intent of Section 2 is not revealed from its language and resort to legislative history is therefore necessary. The historical record on enactment of the Fourteenth Amendment shows that early drafts of Section 2 contained no language concerning exceptions to the penalty for a state's disenfranchisement of qualified voters. Such drafts

initially imposed the penalty only with respect to denial of the vote on grounds of race or color. When the Amendment was later broadened to impose the penalty on states which abridged the franchise on any grounds, the exception relating to participation in rebellion was added. Nowhere is there clear indication of what the words "or other crime" were to mean. Indeed, the only indicator is the common practice at the time, by the drafters and others, to equate "crime" with misconduct which might reasonably be expected of Confederates in the wake of defeat by the North. This explains why the phrase "or other crime" follows close on the heels of the word "rebellion."

> "Furthermore, the crucial words 'or other crimes' are utterly devoid of independent legislative intent, and take on historical meaning only as part of the phrase 'participation in rebellion, or other crime.' Proposed § 2 (H.R. 51, 39th Cong., Sess. (1866)) was sent to a Joint Committee with the phrase 'participation in rebellion.' *CONG. GLOBE*, 39th Cong., 1st Sess. 1289 (1866). It is clear that the thrust of this language was to limit governmental activity by former rebels. *See* H.R. Rep. 30, 39th Cong., 1st Sess. 14, 15 (1866). The final version of the bill (H.R. 127, 39th Cong., 1st Sess. (1866)), however, was reported out six weeks later with the language 'or other crime' tacked on. There is no apparent legislative intent for this addition, and it makes sense only as giving the states a broader weapon to use against former Confederates." [13]

---

[13] Note, *Restoring the Ex-Offender's Right to Vote: Background and Developments*, 11 Am. Cr. L. Rev. 720, 746 n. 158 (1973).

It seems, therefore, that the operative intent, if any, in use of the phrase "other crime" was to validate disenfranchisement of Confederate officials and sympathizers for a variety of offenses and outlawed political activities related to the rebellion, *i.e.* violations which the phrase "participation in rebellion" might not technically encompass. An interpretation of this kind would comport with the recognized "ejusdim generis" concept under which general words and phrases ("or other crime") following words of specific meaning ("rebellion") are not construed in their widest extent but rather within the same general class or category as the specific reference.

B. Prior judicial interpretations of the effect of section 2 on offender voting restrictions were not well reasoned, are distinguishable from this case, and should not be deemed binding.

The assertion that Section 2 may be read to exclude former offenders from the right to vote is not without precedent. The cases on which Petitioner relies generally support this interpretation and two of them have been affirmed by this Court in response to its obligatory appellate jurisdiction.[14] *Fincher v. Scott*, 352 F.Supp. 117 (M.D.N.C. 1972), *aff'd mem.*, 411 U.S. 961 (1973), and *Beacham v. Braterman*, 300 F.Supp. 182 (S.D. Ga. 1969), *aff'd mem.*, 396 U.S. 12 (1969).

---

14 "A summary affirmance without opinion in a case within the Supreme Court's obligatory appellate jurisdiction has very little precedential significance. (Frankfurter & Landis, 'The Business of the Supreme Court at October Term 1929' (1930) 44 Harv.L.Rev. 1, 14. *See also* Serrano v. Priest (1971) 5 Cal.3d 584, 616-617, 96 Cal.Rptr. 601, 624, 487 P.2d 1241.)" *Dillenburg v. Kramer*, *supra* at 1225.

In *Fincher*, North Carolina's constitutional and statutory provisions disenfranchising prisoners were upheld. The lower court found that Section 1 of the Fourteenth Amendment must be read in light of Section 2 which "expressly allows the exclusion of felons from the franchise." See also, *Green v. Board of Elections, supra*, and *Beacham v. Braterman, supra*.

However, well reasoned and contrary authority exists, whose analysis of current equal protection standards and the realities of ex-felon/electoral system relationships have not been adequately answered. See the decision of the California Supreme Court in this case, *Ramirez v. Brown, supra; Stephens v. Yeomans*, 327 F.Supp. 1182 (D.N.J. 1970); *Dillenburg v. Kramer, supra*.

Initially, it should be noted that neither *Fincher* or *Beacham*, nor *Green* (which appears to be the intellectual wellspring of the other cases) received plenary consideration by this Court. Thus, they may be regarded as having "little precedential significance," *Dillenburg v. Kramer, supra* at 1225. Further, none of these cases, as well as others relied on by Petitioner, is as broad as Petitioner asserts. *Fincher* dealt only with the right to vote of an incarcerated felon,[15] whereas the present case involves the voting rights of persons who have completed their sentence, whether on probation or in confinement and subsequently on parole. Insofar as it examined disenfranchisement directly, rather than the more extensively discussed pardon power of the Florida Governor, *Beacham* cited and relied

---

[15] Jurisdictional Statement, *Fincher v. Scott, supra* at 6, 7, 18, 20. Conversation with Norman B. Smith, counsel for Fincher, December 17, 1973.

only on *Green*. Similarly, *Green* is distinguishable from the instant case. First, and most significantly, it relied on the rational relationship test which no longer suffices to justify voting restrictions imposed on special classes or groups of citizens. Further, the precise question before the Second Circuit was procedural, concerning the criteria for convening a three-judge court to determine the constitutionality of certain New York disenfranchisement statutes. Moreover, the plaintiff in *Green* had been convicted of the type of offense which, a century earlier, would have been characterized as rebellious or seditious behavior under Section 2.

Beyond these differences, examination reveals that the lower court opinions in these cases offer little analysis as to why their reading of Section 2 was proper. Indeed, such analysis reveals that there are alternative readings which achieve a fair and just result, and which comport with the rules of Constitutional construction.

In *Fincher v. Scott, supra*, the cursory treatment accorded Section 2 may be laid to that Court's willingness to accept, at face value, the meaning given to the proviso "except for participation in rebellion, or other crime" almost ninety-nine years earlier in *United States v. Anthony*, 24 Fed. Cas. No. 14,459, p. 829 (C.C.N.D.N.Y. 1873) (criminal proceeding involving the defense of an asserted Constitutional right to vote for women citizens). However, in *Anthony*, the court discussed the meaning of Section 2 in even more summary fashion than *Fincher*, using it only to demonstrate that the Section assumed the right of states to deny the vote to certain classes of citizens:

> "This view is *assumed* in the second section of the fourteenth amendment which enacts, that, if the right to vote for federal officers is denied by any state to any of the male inhabitants of such state, except for crime, the basis of representation of such state shall be reduced in a proportion specified. Not only does this section *assume* that the right of male inhabitants to vote was the especial object of its protection, but it assumes and admits the right of a state notwithstanding the existence of that clause under which the defendant claims to the contrary, to deny to classes or portions of the male inhabitants the right to vote which is allowed to other male inhabitants. The regulation of the suffrage is thereby *conceded* to the states as a state's right." *United States v. Anthony, supra* at 831. (Emphasis added)

Likewise, in *Green v. Board of Elections, supra,* analysis of Section 2 is absent.

In sum, the exact meaning of the proviso in question has never been considered by the courts which purported to construe its meaning. Rather, the exclusionary interpretation was assumed without the scrutiny of legislative history and contextual significance merited by an issue of this magnitude.

III. ACTIONS TAKEN BY THOSE CONCERNED WITH CRIMINAL JUSTICE, RECENT STATE LEGISLATIVE ACTIVITY, AND POSITIONS ADOPTED BY GROUPS CONCERNED WITH THE ELECTORAL PROCESS, CONFIRM THAT THERE IS NO JUSTIFICATION FOR DENYING FORMER FELONS THEIR FUNDAMENTAL RIGHT TO VOTE

The Constitution is a living document that, historically, has enabled this Court to maintain a proper balance between fundamental changes in our society and its institutions, and traditional legal concepts. Nowhere has this flexibility been more consistently demonstrated than in the context of voting rights.

> ". . . the Equal Protection Clause is not shackled to the political theory of a particular era. In determining what lines are unconstitutionally discriminatory, we have never been confined to historic notions of equality . . . Notions of what constitutes equal treatment for purposes of the Equal Protection clause do change." *Harper v. Virginia Board of Elections, supra* at 669.

Thus, when faced with state classifications that seek to disenfranchise selected groups of citizens, it becomes crucial that this Court examine the rationale behind the exclusion, and whether the rationale retains validity in modern society.

In its origins, penology stressed the need to impose severe physical penalties on lawbreakers. Severe penalties were deemed necessary for society to achieve retribution for the wrongful act and to deter others from committing

similar offenses.[16] So also was the imposition of various civil disabilities, collectively known as "civil death" provisions, thought to be an effective means of punishment.

These theories of crime and punishment were carried over to this country with the colonists, and although our Constitution prohibited certain of the more drastic penalties for commission of crime,[17] the penalty of "civil death" persisted. The penal philosophy which gave life to such onerous sanctions remained virtually unchallenged until the last half of the nineteenth century when a meeting of the National Congress on Penitentiary and Reformatory Discipline (now the American Correctional Association) adopted an historic Declaration of Principles. It was asserted among other things that:

> "The supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering."[18]

---

16 ". . . The early penal systems were designed for two purposes – to exact vengeance on wrongdoers and to deter other potential offenders. With those objectives, the penalties had to be brutal and they had to be widely observed, the only limiting factor being the tolerance of the community." Babington, *The Power to Silence*, 164 (1968).

17 See, Art. III, §3 of the United States Constitution (specifically prohibiting forfeiture and corruption of blood except during the life of a person convicted of treason), and the Eighth Amendment (prohibiting infliction of punishments which are "cruel and unusual").

18 Art. III of the Declaration of Principles (1870), reprinted American Bar Association and Council of State Governments, *Compendium of Model Correctional Legislation and Standards*, X-65 (1972).

Gradually, increasingly numbers of experts and administrators in the field of corrections have embraced this policy as the most promising means of dealing with crime and reducing recidivism.[19] Today such acceptance is almost universal. The underlying philosophy has also been endorsed by the nation's highest elected officials:

> "Locking a convict up is not enough. We must also offer him the keys of education, of rehabilitation, of useful training, of hope – the keys he must have to open the gates to a life of freedom and dignity."[20]

The emphasis of our nation's correctional programs likewise reflects the view that, while punishment may be a necessary evil of the correctional process, the goal of rehabilitation of offenders should be paramount. The wide range of programs and methods of treatment now flourishing either within, or as an adjunct to, the correctional process, bears witness to this view. Although problems of implementation and inadequate resources are quite real, vocational training, counselling, and treatment for alcohol and drug addiction are today considered an integral part of the prison regimen. Similarly, increased reliance on community correctional programs such as halfway houses, work release programs and probation and parole signals a

---

19 ". . . The ultimate goal of corrections under any theory is to make the community safer by reducing the incidence of crime. Rehabilitation of offenders to prevent their return to crime is in general the most promising way to achieve this end." President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections*, 16 (1967).

20 Remarks of President Richard M. Nixon, First National Conference on Corrections, Williamsburg, Va., December 6, 1971.

dramatic departure from past willingness to segregate even harmless offenders from society-at-large.[21] There have been an increasing realization that society must either responsibly assume the burden of preparing offenders for productive citizenship (especially those whose debt has been fully paid) or reap a harvest of alienation and despair from those it has abandoned.

Despite agreement on the appropriateness of affirmative efforts to rehabilitate and reintegrate offenders into society, a number of states, including California, persist in denying to former offenders the fundamental right to vote. Virtually every national group which has examined this question has recognized the counterproductive nature of the practice. The most recent of these, the National Advisory Commission on Criminal Justice Standards and Goals, reached a similar conclusion:

> "Loss of citizenship rights – the right to vote, hold public office, and serve on juries – inhibits reformative efforts. If corrections is to reintegrate an offender into free society, the offender must retain all attributes of citizenship. In addition, his respect for law and the legal system may well depend, in some measure, on his ability to participate in that system. Mandatory denials of that participation serve no legitimate public interest." *Report on Corrections*, 593 (1973).

---

[21] National Advisory Commission on Criminal Justice Standards and Goals, *Report on Corrections* (1973). A variety of standards are relevant, including especially: 2.9 – Rehabilitation; 2.10 – Retention and Restoration of Rights; 3.1 – Use of Diversion; 4.9 – Programs for Pretrial Detainees; 5.2 – Sentencing the Nondangerous Offender; 6.1 – Comprehensive Classification Systems; 7.1 – Development Plan for Community-Based Alternatives to Confinement; See also Chapters 10 (Probation), 11 (Major Institutions), 12 (Parole) and 16 (Statutory Framework of Corrections).

Other groups intrinsically concerned with electoral and governmental processes, such as the National Democratic Party [22] and the California League of Women Voters, [23] have specifically adopted as policy the position that restrictions on the right to vote of former offenders should be abolished. The President's Commission on Law Enforcement and Administration of Justice was no less explicit in its 1967 appeal for restoration of the franchise to former offenders.

> "There seems to be no justification for permanently depriving all convicted felons of the vote, as the laws in most states provide. The convicted person may have no strong personal interest in voting, but to be deprived of the right to representation in a democratic society is an important symbol. Moreover, rehabilitation might be furthered by encouraging convicted persons to participate in society by exercising the vote." [24]

Further, various model acts and suggested legislation propose abolition of restrictions on ex-offenders' voting rights. The American Bar Association has approved legislation developed by the National Conference of Commissioners on Uniform State Laws which would restore an offender's

---

[22] In its *Party Platform:* 1972, the Democratic Party endorsed ". . . restoration of civil rights to ex-convicts after completion of their sentences, including the right to vote."

[23] ". . . the right to vote should be restored to ex-felons," California League of Women Voters, *Policy Statement,* February 16, 1972.

[24] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections,* 90 (1967).

right to vote upon his discharge from sentence or if placed on probation or parole. *Uniform Act on the Status of Convicted Persons*, §§2, 3 (1965). A similar position was incorporated by the American Law Institute in the *Model Penal Code:*

> "§306.3 Notwithstanding any other provision of law, a person who is convicted of a crime shall be disqualified (1) from voting in a primary or election if and only so long as he is committed under a sentence of imprisonment."

Legislatures in a growing number of states have recognized the wisdom of this view and have been moving to eliminate voting restrictions placed on ex-felons. Four states—Arkansas, Maine, Michigan, and Tennessee—now have no restrictions while others provide for automatic restoration of voting rights.[25] Such actions reflect a trend that is unmistakable.[26]

---

[25] See Appendix A of this brief for state law disenfranchisement provisions. See Appendix B of this brief for provisions respecting re-enfranchisement. Nineteen states automatically restore civil rights upon termination of imprisonment, parole or probation while five more states and the District of Columbia restore rights after a fixed period of time. *Restoring the Ex-Offender's Right to Vote: Background and Development*, 11 Am. Crim. L. Rev. 721, 758 and n. 215, *et seq.* California's procedure (Petitioner's brief at pp. 21-24 and Appendix A thereof) is more cumbersome, requiring an application, a judicial proceeding, and a discretionary determination based on no more explicit standard than "rehabilitation and fitness to exercise all of the civil and political rights of citizenship."

[26] The National Advisory Commission on Criminal Justice Standards and Goals has called for all states to enact by 1975 legislation removing all mandatory restrictions on ex-offender civil and political rights, including the right to vote and hold public office. *Report on Corrections*, Standard 16.17 (1973).

The purpose of corrections has shifted from one of thoughtless retaliation to that of attempting to prepare the offender for lawful participation in society. However, at the same time that millions of dollars are being spent to implement this program, with unprecedented commitment of federal, state, and local resources to that end, laws grounded in the antiquities of penology conflict with today's goals of rehabilitation and reintegration. If the strength of democratic government is truly drawn from its collective citizenry, surely those who have endured its sanctions deserve also to participate in its most valued entitlements. As de Tocqueville once noted:

> "There is no more invariable rule in the history of society: the further electoral rights are extended the greater is the need for extending them; for after each concession the strength of democracy increases, and its demands increase with its strength." *Democracy in America*, 57 (Knopf 1956).

CONCLUSION

For the above reasons, the American Bar Association respectfully urges this Court to affirm the decision of the Supreme Court of California.

Respectfully submitted,

CHESTERFIELD SMITH, President
RICHARD J. HUGHES
DANIEL L. SKOLER
MELVIN T. AXILBUND
RICHARD C. HAND
PAUL F. ATTAGUILE
RALPH H. LOEWENSTEIN

American Bar Association
1155 East 60th Street
Chicago, Illinois

Attorneys for Amicus Curiae

CERTIFICATE OF SERVICE

I, Chesterfield Smith, attorney for amicus, hereby certify that 3 copies of this brief were duly served upon attorneys for both parties by mail service, postage pre-paid.

_____

Chesterfield Smith

APPENDIX A

TABLE I
STATE DISENFRANCHISEMENT PROVISIONS

State	Felony [215]	Infamous Crimes [216]	Crimes Involving Moral Turpitude [217]	Specified Offenses [218]	Election Crimes [219]	While Incarcerated* or Under Sentence [220]	Crimes Punishable By Incarceration [221]	Treason [222]
Alabama		√	√	√	√		√	√
Alaska	√					√	√	
Arizona	√					√*		√
Arkansas	√[E]							
California		√		√		√*		
Colorado						√*		
Connecticut	√			√[E]				
Delaware	√				√	√*		
District of Columbia	√							
Florida	√					√*		
Georgia			√	√			√	√
Hawaii	√							
Idaho	√	√		√	√			√

E: enabling provision

State	Felony [215]	Infamous Crimes [216]	Crimes Involving Moral Turpitude [217]	Specified Offenses [218]	Election Crimes [219]	While Incarcerated* or Under Sentence [220]	Crimes Punishable By Incarceration [221]	Treason [222]
Illinois	√					√*		
Indiana	√	√E			√	√*		
Iowa		√			√			
Kansas	√			√			√	√
Kentucky	√			√E	√	√*		√
Louisiana	√					√*	√	
Maine					√E			
Maryland		√		√	√			
Massachusetts					√			
Michigan						√*E		
Minnesota	√	√E		√E				√
Mississippi				√				
Missouri	√			√	√	√*	√	

E: enabling provision

TABLE I—*Continued*

State	Felony [215]	Infamous Crimes [216]	Crimes Involving Moral Turpitude [217]	Specified Offenses [218]	Election Crimes [219]	While Incarcerated* or Under Sentence [220]	Crimes Punishable By Incarceration [221]	Treason [222]
Montana	√							
Nebraska	√							√
Nevada	√			√				√
New Hampshire				√	√	√		√
New Jersey				√[E]		√		
New Mexico	√	√						
New York	√	√		√	√			
North Carolina	√						√	
North Dakota	√				√			√
Ohio	√	√[E]		√[E]				
Oklahoma	√					√*		
Oregon						√	√	
Pennsylvania					√			

E: enabling provision

State	Felony [215]	Infamous Crimes [216]	Crimes Involving Moral Turpitude [217]	Specified Offenses [218]	Election Crimes [219]	While Incarcerated* or Under Sentence [220]	Crimes Punishable By Incarceration [221]	Treason [222]
Rhode Island		√		√			√	
South Carolina				√	√			√
South Dakota	√					√*		
Tennessee		√E		√				
Texas	√				√	√*		√
Utah					√			
Vermont								
Virginia	√							
Washington		√			√			√
West Virginia	√			√	√			√
Wisconsin	√	√						
Wyoming	√	√						

E: enabling provision

APPENDIX B

TABLE II

STATE PROVISIONS FOR RESTORATION OF VOTING RIGHTS

State	Automatic Restoration [222]	Disenfranchisement For a Determinate Period [224]	Disenfranchisement For a Determinate Period; Only Certain Offenses [223]	Pardon By Governor [226]	Other Procedures [227]
Alabama					√
Alaska				√	√
Arizona				√	√
Arkansas				√	√
California				√	√
Colorado	√			√	√
Connecticut				√	√
Delaware	√		√	√	√
District of Columbia		√			
Florida	√			√	√
Georgia				√	√
Hawaii	√			√	√
Idaho				√	√

E: enabling provision

State	Automatic Restoration [223]	Disenfranchisement For a Determinate Period [224]	Disenfranchisement For a Determinate Period: Only Certain Offenses [225]	Pardon By Governor [226]	Other Procedures [227]
Illinois	√				
Indiana		√		√	
Iowa			√	√	
Kansas	√			√	
Kentucky			√	√	
Louisiana				√	
Maine		√[E]		√	
Maryland				√	
Massachusetts		√		√	
Michigan				√	
Minnesota	√			√	
Mississippi					√
Missouri			√	√	√

E: enabling provision

TABLE II—*Continued*

State	Automatic Restoration [223]	Disenfranchisement For a Determinate Period [224]	Disenfranchisement For a Determinate Period: Only Certain Offenses [225]	Pardon By Governor [226]	Other Procedures [227]
Montana	√			√	
Nebraska	√			√	√
Nevada				√	√
New Hampshire	√				√
New Jersey	√			√	
New Mexico				√	
New York	√			√	
North Carolina		√		√	
North Dakota				√	√
Ohio	√			√	
Oklahoma				√	
Oregon	√			√	

E: enabling provision

State	Automatic Restoration [223]	Disenfranchisement For a Determinate Period [224]	Disenfranchisement For a Determinate Period: Only Certain Offenses [225]	Pardon By Governor [226]	Other Procedures [227]
Pennsylvania		√		√	
Rhode Island				√	√
South Carolina					√
South Dakota	√			√	
Tennessee				√	√
Texas				√	
Utah					√
Vermont		√		√	
Virginia				√	
Washington	√			√	
West Virginia	√			√	
Wisconsin	√			√	
Wyoming	√			√	

E: enabling provision

NOTES TO TABLES

[213] ALASKA CONST. art. V, § 2 (felonies involving moral turpitude); ALASKA STAT. § 15.05.030 (1971); ARIZ. CONST. art. VII, § 2; ARIZ. REV. STAT. ANN. §§ 16–101, 16–921 (Supp. 1972–1973); ARK. CONST. amend. 8, art. 3, § 1 (enabling provision); 16–150, CONN. GEN. STAT. ANN. § 9–46 (1967) (except the crime of non-support); DEL. CONST. art. V, § 2 (accompanied by an enabling clause which permits the General Assembly to disenfranchise as punishment for crime); D.C. CODE ANN. § 1–1102 (Supp. 1973); FLA. CONST. art. VI, § 4; FLA. STAT. ANN. § 97.041 (Supp. 1973); HAWAII CONST. art. II, § 2 (Supp. 1971); HAWAII REV. STAT. § 716–2 (Supp. 1971); IDAHO CONST. art. VI, § 3 (Supp. 1972); IDAHO CODE § 34–403 (Supp. 1972); ILL. CONST. art. 3, § 2; IND. STAT. ANN. § 29–5964 (1964 Replacement); KAN. CONST. art. 5, § 2; KY. CONST. § 145; LA. CONST. art. VII, § 1; LA. CONST. art. VIII, § 6; LA. REV. STAT. tit. 15, § 572.1 (Supp. 1971); MINN. CONST. art. 7, § 2; MO. CONST. art. 8 § 2; MO. REV. STAT. § 111.021 (Supp. 1973); MO. REV. STAT. § 113.040 (1966); MONT. CONST. art. IX, § 2; MONT. REV. CODE § 23–2701 (Supp. 1971); NEB. CONST. art. VI, § 2; NEB. REV. STAT. § 29–112 (1964); NEV. CONST. art. II, § 1; N.M. CONST. art. VII, § 1; N.M. STAT. ANN. § 40A–29–14 (1964); N.Y. ELECTION LAW §§ 152, 462 (McKinney Supp. 1972–1973); N.C. CONST. art. VI, § 2(3); N.D. CONST. art. V, § 127; N.D. CENT. CODE § 16–01–04 (1971 Replacement); OHIO REV. CODE ANN. § 2961.01 (1954); OKLA. CONST. art. III, § 1 ("subject to such exceptions as the legislature may prescribe"); S.D. CONST. art. VII, § 8; TEX. CONST. art. 6, § 1; TEX. ELECTION CODE art. 5.01 (1967 rev. ed.); VA. CONST. art. II, § 1; VA. CODE ANN. § 24.1–42 (Supp. 1972); W. VA. CONST. art. IV, § 1; W. VA. CODE ANN. § 3–1–13 (1971); WISC. CONST. art. III, § 2; WISC. STAT. ANN. § 6.03 (1967); WYO. STAT. § 6–4 (1959).

[214] ALA. CONST. § 182; ALA. CODE tit. 17, § 15 (1958); CAL. CONST. art. II, § 1; IDAHO CONST. art. VI, § 3 (Supp. 1972); IND. CONST. art. 2, § 8 (enabling provision); IOWA CONST. art. 2, § 5; MD. CONST. art. 1, § 2 (enabling provision); MD. REV. STAT. ANN. art. 33, § 3–4, as amended, ch. 667 (Laws of Md. of 1972); MINN. CONST. art. 4, § 15 (enabling provision); N.M. CONST. art. VII, § 1; N.Y. CONST. art. II, § 3; OHIO CONST. art. V, § 4 (enabling provision); R.I. CONST. amend. 24, § 4; TENN. CONST. art. I, § 5 (enabling provision) (*see* note 203 *supra* and accompanying text); TENN. CONST. art. IV, § 2 (enabling provision); WASH. CONST. art. 6, § 3; WISC. CONST. art. III, § 6 (enabling provision); WYO. CONST. art. 6, § 6.

[215] ALA. CONST. § 182; GA. CONST. § 2–801.

[216] ALA. CONST. § 182 ("murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, . . . any person who shall be convicted as a vagrant or tramp. . . ."); ALA. CODE, tit. 17, § 15 (1958) (same in substance as constitution); CAL. CONST. art. II, § 1 (embezzlement, misappropriation of public money); CAL. CONST. art. XX, § 11 (bribery, perjury, forgery, malfeasance in office, or other high crimes); CAL. PENAL CODE §§ 228, 232 (1970) (duelling); CONN. CONST. art. VI, § 3; GA. CONST. § 2–801 (embezzlement of public funds, malfeasance in office, bribery or larceny); IDAHO CONST. art. VI, § 3 (Supp. 1972) (bigamy, polygamy); KAN. CONST. art. 5, § 2 (defrauding the government, bribery); KY. CONST. § 145 ("such high misdemeanors as the general assembly may declare"); KY. REV. STAT. § 432.350 (1969) (state official who receives a bribe); KY. REV. STAT. § 436.230 (1969) (bribery); MD. REV. STAT. ANN. art. 33, § 3–4, *as amended* ch. 667 (Laws of Md. of 1972) (larceny); MINN. CONST. art. 4, § 15 (bribery, perjury); MISS. CONST. art. 12, § 241 (murder, rape, bribery, theft, arson, obtaining money under false pretense, perjury, forgery, embezzlement or bigamy); MISS. CODE § 23–5–85 (1972) (same in substance as constitution); MISS. CODE § 99–19–35 (1972) (same in substance as constitution); MO. REV. STAT. § 557.490 (1953)

(perjury); MO. REV. STAT. § 559.470 (1953) (murder and other felonies involving physical assault); MO. REV. STAT. § 560.610 (Supp. 1973) ("any person who shall be convicted of arson, burglary, robbery or the stealing of any motor vehicle, narcotic drug, horse, mare, gelding, colt, filly, mule, dog, ass, sheep, goat, hog, meat cattle, domestic fowl in the nighttime, deed, will, court record, anything of the value of fifty dollars or more, or anything from a dwelling or from the person. . . ."); MO. REV. STAT. § 561.340 (Supp. 1973) (false acknowledgment of deed: affixing false jurat, certain felonies dealing with forgery and related offenses); NEV. CONST. art. XV, § 3 (duelling); N.H. CONST. pt. 1, art. II (bribery); N.J. CONST. art. II, § 7 (legislature may disenfranchise those convicted of "such crimes as it may designate"); N.Y. CONST. art. II, § 3 (bribery); OHIO CONST. art. V, § 4 (bribery, perjury); R.I. CONST. amend. 24, § 4 (bribery); S.C. CONST. art. II, § 6 ("persons convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife-beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, larceny. . . ."); S.C. CODE ANN. § 23–62 (Supp. 1971) (same in substance as constitution); S.C. CODE ANN. § 16–61 (1962) (duelling); TEX. CONST. art. 16, § 2 ("bribery, perjury, forgery, or other high crimes"); WIS. CONST. art. III, § 6 (bribery, larceny); WIS. STAT. ANN. § 6.03 (1967) (bribery).

[219] ALA. CONST. § 182; ALA. CODE tit. 17, § 15 (1958); DEL. CONST. art. V, § 2; DEL. CODE ANN. tit. 15, § 1701 (Non-cum. Supp. 1972); IDAHO CONST. art. VI, § 3 (Supp. 1972); IDAHO CODE § 34–403 (Supp. 1972); ILL. ANN. STAT. ch. 46, § 29A–5 (Smith-Hurd Supp. 1972) (if sentenced to penitentiary); IND. STAT. ANN. §§ 29–5908, 29–5964, 29–5965 (1969 Replacement); IOWA CODE § 51.16 (1949); KY. CONST. § 145; KY. REV. STAT. §§ 124.150, 124.190, 160.991 (1971); ME. CONST. art. IX (enabling provision); MD. REV. STAT. ANN. art. 33 §§ 3–4, *as amended*, ch. 667, (Laws of Md. of 1972); MASS. CONST. amend. art. III; MASS. GEN. LAWS ch. 51, § 1 (Supp. 1973); MASS. GEN. LAWS ch. 55, § 37 (1958); MO. CONST. art. 8, § 2; MO. REV. STAT. § 111.021 (Supp. 1973); MO. REV. STAT. §§ 113.040, 129.420, 129.490, 129.500, 129.920 (1966); N.H. CONST. pt. I, art. 11; N.Y. ELECTION LAW § 152 (McKinney Supp. 1972–1973); N.D. CENT. CODE § 12–11–06 (1960); PA. CONST. art. VII, § 7 (only disenfranchises for the election in which crime committed); PA. STAT. ANN. tit. 25, § 3552 (1963) (only disenfranchises for four years); S.C. CONST. art. II, § 6; S.C. CODE ANN. § 23–62 (Supp. 1971); UTAH CONST. art. IV, § 6, VT. CONST. ch. II, § 51; W. VA. CONST. art. IV, § 1; W. VA. CODE ANN. § 3–1–13 (1971); WIS. CONST. art. III, § 6 (enabling provision); WIS. STAT. ANN. § 6.03 (1967).

[220] ALASKA STAT. § 11.05.070 (1970); ARIZ. REV. STAT. ANN. § 13–1653; CAL. PENAL CODE § 2600 (1970); COLO. CONST. art. VII, § 10; COLO. REV. STAT. ANN. § 49–3–2 (Perm. Cum. Supp. 1971); DEL. CODE ANN. tit. 11, § 4347 (Supp. 1970); FLA. STAT. ANN. § 97.041 (Supp. 1973); ILL. CONST. art. 3, § 2; IND. STAT. ANN. § 29–4804 (1969 Replacement); KY. CONST. § 145; LA. CONST. art. VIII, § 6; LA. REV. STAT. tit. 18, §§ 42, 270.210 (1969); MICH. CONST. art. II, § 2; MO. CONST. art. 8, § 2; MO. REV. STAT. § 111.021 (Supp. 1973); MO. REV. STAT. § 113.040 (1966); MO. REV. STAT. § 222.010 (1962); N.H. REV. STAT. 607–A (Supp. 1972); N.J. REV. STAT. ANN. § 19:4–1 (Supp. 1972–1973); OKLA. STAT. ANN. tit. 21, § 65 (1968); ORE. REV. STAT. § 137.240 (1969 Replacement); S.D. CODE § 23–48–35 (1967); UTAH CODE ANN. § 76–1–36 (1953).

[221] ALASKA STAT. § 15.05.030 (1971); GA. CONST. § 2–801; ILL. STAT. ANN. ch. 46 § 3–5 (Smith-Hurd Supp. 1972); KAN. STAT. ANN. § 21–4615 (Supp. 1972); LA. CONST. art. VII, § 1; LA. REV. STAT. § 18: 42 (1969); LA. REV. STAT. § 18: 270.210 (Supp. 1972); MO. REV. STAT. § 560.610 (Supp. 1973); N.C. GEN. STAT. § 163–55 (1972); ORE. CONST. art. II, § 3; R.I. GEN. LAWS ANN. § 13–6–2 (1969 Reenactment).

[222] ALA. CONST. § 182; ALA. CODE tit. 17, § 15 (1958); ARIZ. CONST. art. VII, § 2; ARIZ. REV. STAT. ANN. § 16–101 (Supp. 1972–1973); GA. CONST. § 2–801; IDAHO CONST. art. VI, § 3 (Supp. 1972); IDAHO CODE § 34–403 (Supp. 1972); KAN. CONST. art. 5, §

2; KY. CONST. § 145; MINN. CONST. art. 7, § 2; NEB. CONST. art. VI; NEV. CONST. art. II, § 1; N.H. CONST. pt. 1, art. II; N.D. CONST. art. V, § 127; N.D. CENT. CODE § 16-01-04 (1971 Replacement); S.D. CONST. art. VII, § 8; UTAH CONST. art. IV, § 6; W. VA. CONST. art. IV, § 1; W. VA. CODE ANN. § 3-1-13 (1971); WIS. CONST. art. III, § 2; WIS. STAT. ANN. § 6.03 (1967).

[223] COLO. CONST. art. III, § 10; COLO. REV. STAT. ANN. § 49-3-2 (Perm. Cum. Supp. 1971); FLA. STAT. ANN. § 940.05 (1973) (after having served maximum term of sentence or after having been granted final release by parole and probation commission); HAWAII REV. STAT. § 716-5 (Supp. 1971); ILL. ANN. STAT. ch. 38, § 124-2 (Smith-Hurd Supp. 1972) ILL. ANN. STAT. ch. 46, §§ 3-5, 29A-5 (Smith-Hurd Supp. 1972); KAN. STAT. ANN. § 22-3722 (Supp. 1972) (upon discharge from imprisonment or upon issuance of "certificate of discharge" from parole or probation); MINN. STAT. § 609.165 (1964) (on expiration of sentence); MONT. CONST. art. IV, § 2 (felons may vote upon release from confinement); NEB. REV. STAT. § 29-112.01 (1964) (upon satisfaction of judgment when sentence is other than confinement); NEB. REV. STAT. § 29-2264 (Cum. Supp. 1972) (upon satisfactory completion of probation); NEB. REV. STAT. § 83-1118 (1971) (upon satisfactory completion of sentence or parole); N.H. REV. STAT. § 607-A (Supp. 1972) (upon "discharge after completion of service of his sentence or after service under probation or parole"); N.J. REV. STAT. ANN. § 19:4-1 (Supp. 1972-1973) (upon completion of sentence, parole or probation); N.Y. ELECTION LAW § 152 (McKinney Supp. 1972-1973) (upon expiration of maximum sentence or discharge from parole); OHIO REV. CODE ANN. § 2967.16 (Supp. 1972) (upon completion of maximum term of sentence or final release by parole authority) [Legislation to allow suffrage during probation, parole and conditional pardon is in conference committee at press time.]; ORE. REV. STAT. § 137.250 (1969 Replacement) (upon final discharge from probation, parole, or imprisonment); S.D. CODE § 24-5-2 (1967) (upon discharge from penitentiary); S.D. CODE § 23-57-7 (1967) (upon expiration of time of disemeanant's suspended sentence); WASH. REV. CODE ANN. § 9.96.050 (Supp. 1972) (upon order of final discharge which shall not occur within a period of one year from the date of conditional discharge); 51 OP. W. VA. ATT'Y GEN. 182 (1965) (construing W. VA. CONST. IV, § 1 not to prohibit a convicted person from voting after completion of sentence); WIS. STAT. ANN. § 57.078 (Supp. 1972-1973) (by serving out term of imprisonment or otherwise satisfying the judgment against him); WYO. STAT. ANN. § 7-311 (1957) (certificate of discharge restores all rights).

[224] The states in this category restore the right to vote for all disenfranchised offenders after a determinate period of time. Thus, no offender in these states is disenfranchised permanently.

DEL. CODE ANN. tit. 11, § 4347 (Supp. 1970); D.C. CODE ANN. § 1-1102 (Supp. 1973) (five years after discharge from incarceration; three years after discharge if, upon application, the Superior Court of the District of Columbia certifies ex-offender's good conduct to Board of Election); IND. STAT. ANN. § 29-5964 (1969 Replacement) (persons convicted of felonies "shall be disenfranchised for any determinate period"); IND. STAT. ANN. § 29-5964 (1969 Replacement) (misdemeanants "shall be disenfranchised for any determinate period not to exceed five years"); ME. CONST. art. IX (enabling power to disenfranchise for up to 10 years); MASS. GEN. LAWS ch. 55, § 37 (1958) (disenfranchisement for three years following date of conviction); N.C. GEN. STAT. § 13-1 (Supp. 1971)(two years after release by Department of Corrections, if no intervening convictions); PA. CONST. art. VII, § 7 (conviction for election crime disenfranchises for election in question); PA. STAT. ANN. tit. 25, § 3552 (1963) (four years after conviction for election crime); VT. CONST. ch. II, § 51 (conviction for election crime disenfranchises for election in question).

[225] The states included in this category disenfranchise some offenders for determinate periods of time and others permanently. Listed below are the provisions which state the fixed time period for restoration of voting rights.

DEL. CONST. art. V, § 7; DEL. CODE ANN. tit. 15, § 1701 (Supp. 1970) (10 years after conviction and sentence for election crimes); IOWA CODE § 51.16 (1949) (judges and clerks convicted of election offenses are disenfranchised for five years); KY. REV. STAT. §§ 160.991, 432.350 (1971); MO. REV. STAT. § 129.920 (1966) (10 year disenfranchisement for "corrupt registration" of voters).

[226] ALASKA CONST. art. III, § 21; ALASKA STAT. § 33.20.070 (1971); ARIZ. CONST. art. V, § 5; ARIZ. REV. STAT. ANN. § 31–443 (1956); ARK. CONST. art. 6, § 18; ARK. STAT. ANN. § 12–300(m) (1968); CAL. CONST. art. V, § 8 (no pardon may be granted to anyone twice convicted of a felony except on recommendation of California Supreme Court, four judges concurring); CAL. PENAL CODE §§ 4852.17, 4853 (West 1970); COLO. CONST. art. IV, § 8; DEL. CONST. art. VII, § 1 (upon recommendation of Board of Pardons); FLA. CONST. art. 4, § 8 (1968 Revision) (with approval of three members of cabinet); FLA. STAT. ANN. § 940.01 (Supp. 1973) (with approval of three members of cabinet); HAWAII CONST. art. IV, § 5 (Supp. 1971); IDAHO CODE § 20–240 (Supp. 1972); ILL. STAT. ANN. ch. 108, § 49 (1952); IND. CONST. art. V, § 17; IOWA CONST. art. 4, § 16; IOWA CODE ANN. § 248.12 (1969); KAN. CONST. art. 1, § 7; KAN. STAT. ANN. § 22–3701 (Supp. 1972); KY. CONST. §§ 77, 145; LA. CONST. art. 5, § 10 (upon written recommendation of lieutenant governor, attorney general, or presiding judge of court of conviction; written recommendation requirement waived for first felony offenders); ME. CONST. art. V, § 11 ("with the advice and consent of the Council. . . ."); MD. CONST. art. II, § 20; MD. REV. STAT. ANN. art. 41, § 118 (1971); MD. REV. STAT. ANN. art. 33, 3–4, as amended, ch. 667 Laws of Md. of 1972; MASS. CONST. pt. 2, ch. 2, § 1, art. 7 (with advice of council; general court may prescribe pardon terms in felony cases); MASS. GEN. LAWS ch. 127, § 152 (Supp. 1973) (public hearing required in felony cases); MICH. CONST. art. V, § 14; MINN. CONST. art. V, § 4 (in conjunction with Board of Pardons); MO. CONST. art. 4, § 7; MO. REV. STAT. § 222.030 (1962); MO. REV. STAT. § 560.610 (Supp. 1973); MONT. CONST. art. VII, § 9 (advised by Board of Pardons); NEV. CONST. art. V, § 13; NEV. CONST. art V, § 14 (in conjunction with Attorney General and justices of Supreme Court); N.J. REV. STAT. ANN. § 2A:167–5 (1971); N.M. CONST. art. V, § 6; N.M. STAT. ANN. §§ 40A–29–14, 21 (1964); N.Y. CONST. art. 4, § 4; N.C. CONST. art. III, § 5(6); N.D. CONST. art. III, § 76 (in conjunction with Board of Pardon); OHIO CONST. art. III, § 11; OKLA. CONST. art. 6, § 10 (upon recommendation of majority of Pardon and Parole Board); OKLA. STAT. ANN. tit. 57, §§ 332, 345 (1969); ORE. CONST. art. V, § 14; PA. CONST. art. IV, § 9 (only upon recommendation in writing of majority of Board of Pardons); PA. STAT. ANN. tit. 19, § 893 (1964) (fulfillment of sentence equivalent to pardon); R.I. CONST. amend. 2 (with advice and consent of Senate); S.D. CONST. art. IV, § 5; S.D. CODE § 23–59–1 (1967) ("only upon recommendation in writing of the board of pardons and paroles"); TENN. CONST. art. 3, § 6; TENN. CODE. ANN. § 40–3501 (1955); TEX. CONST. art. 4, § 11 (upon written recommendation of majority of Board of Pardons and Paroles); TEX. CODE CRIM. PROC. art. 48.01 (1966 Revision) (upon written recommendation of majority of Board of Pardons and Paroles); VT. CONST. ch. II, § 20; VA. CONST. art. V, § 12; WASH. CONST. art. 3, §§ 9, 11; WASH. REV. CODE ANN. §§ 9.95.160, 9.96.010 (1963); W. VA. CONST. art. VII, § 11; W. VA. CODE ANN. § 5–1–16 (1971); WIS. CONST. art. 5, § 6; WYO. CONST. art. 4, § 5; WYO. STAT. ANN. § 7–386 (1959).

[227] ALA. CONST. amend. 38; ALA. CODE tit. 42, § 1 (1958) (by State Board of Pardons and Paroles); ARIZ. REV. STAT. ANN. §§ 13–1742 to 1745 (Supp. 1972–1973) (within judicial discretion); CAL. PENAL CODE § 1203.4 (West 1970); CONN. GEN. STAT. ANN. §§ 9–47, 48 (by Commission on Forfeited Rights); D.C. CODE ANN. § 1–220 (Supp. V, 1972) (by Commissioners of the District of Columbia); FLA. STAT. ANN. § 940.05 (Supp. 1973) (by Board of Pardons); GA. CONST. § 2–3011 (by State Board of Pardons and Paroles); GA. CODE ANN. § 27–2701 (1972 Revision) (by State Board of Pardons and Paroles); GA. CODE ANN. § 77–528 (1964 Revision) (describes effect of pardon); IDAHO CONST. art. IV, § 7 (by Board of Paroles); MISS. CONST. art. 12, § 253 (by the legis-

lature); MISS. CODE § 2503.5 (1957) (if honorably discharged from certain military service); MO. REV. STAT. § 216.355 (1962) (by Board of Probation); NEB. CONST. art. IV, § 13 (by Board of Pardons); NEB. REV. STAT. § 29–112 (1964) (by Board of Pardons); NEV. REV. STAT. § 213.155 (1968) (Parole Board may restore citizenship upon expiration of parole); N.H. CONST. pt. I, art. 11 (by Supreme Court); N.D. CENT. CODE §§ 12–55–05, 12–55–24 (1960) (by Board of Pardons); R.I. CONST. amend. 25, § 4 ("[no] person convicted of bribery, or of any crime deemed infamous at common law, [shall] be permitted to exercise [the franchise] until he be expressly restored thereto by act of the general assembly"); S.C. CONST. art. IV, § 11 (by Probation, Parole and Pardon Board); TENN. CODE ANN. § 40–3701 (1955) (by the Circuit Court); UTAH CONST. art. VII, § 12 (by Board of Pardons); UTAH CODE ANN. § 77–62–3 (1953) (duties of Board of Pardons).